

**Criminal Justice Collaborating Council – Alcohol Workgroup**  
**April 2, 2009**

Judge Davis called the meeting to order at 12:04 p.m.

**Committee Members Present:**

Judge Mac Davis (Chair)

Kristine Hanson

Susan Andrews

Sara Carpenter (left at 1:20 pm.)

Mike DeMares

Mickey Gabbert

Karl Held

**Absent:**

Lisa McClean

**Also Present:**

Lyndsay Johnson

Diane Kelsner

Andy Ladd

John Wirkus

Bonnie Morris (left at 1 p.m.)

Claudia Roska

Peter Schuler (left at 1:24 p.m.)

Tim Westphal

Connie Acheson

Rebecca Luczaj

**Approval of Minutes from February 12, 2009**

The minutes of February 12, 2009 were unanimously approved including a change on page two.

**Overview of WCS' Pilot Program on Restorative Justice Circles for 1<sup>st</sup> Time OWI Offenders**

Carpenter said the concept of Restorative Justice Circles for first time offenders developed from surveys of third time OWI offenders at Victim Impact Sessions. Participants indicated they wished they had had the opportunity to attend such sessions after their first or second offenses. Drunk driving impact panels are designed to give offenders an understanding of the consequences of drinking and driving. A pilot program for first time offenders would address unacceptable behavior in society and create an understanding of the serious potential consequences for offenders who continue to drink and drive, with the goal of preventing drunk driving recidivism. The objective of the pilot program is to provide an intimate group setting of 20 first offenders to help them understand and develop a complete picture of the reason for their behavior. The program would discuss the harm they have done to family, friends, the community and themselves. The circles would meet for 1.5 hours, once a week for eight weeks. Participants would pay a fee of approximately \$200 to \$250 to attend. Municipal courts would refer eligible first offense drunk drivers to the program based on defined criteria. Participants could be terminated from the program for absences, attending under the influence of alcohol, not participating, etc. Staff will develop a certificate of completion for offenders to prove successful completion of the group. Staff from WCS Mediation and the Restorative Justice Center would collaborate with municipal judges to provide information on the program and develop a referral process.

Carpenter said specific steps need to be designed outlining the process. She wants to meet with Roska to discuss how this program could coordinated with Drivers Safety Plans.

Roska asked what is the motivation and incentive to attend? This is not part of nor has any connection to the Drivers Safety Plan. It is a great idea but some things need to be worked out. Current laws already require first time offenders to attend a \$275 class in order to get their license back along with other fees. It may be difficult to find volume for the class. First time offenders are a different population. In theory it is a good idea.

Wirkus said his attitude changed after he volunteered for the Victim Impact Panel. In theory and in an ideal world he would be supportive of the program.

Davis said eight, 1.5 hour sessions are a lot. Maybe the program could be marketed to families of first and second time offenders or AA could be a referral source. Could a Victim Impact class be videotaped and replayed for future classes? Faces could be pixelated for those wanting anonymity.

Gabbert asked would the courts have a problem making the program mandatory? Davis said that would be up to the municipal judges. Gabbert asked could grant money be found to fund the project? Early intervention is an excellent idea. Maybe a business or foundation would be willing to fund this. Davis said it has appeal for a grant. Carpenter said they are looking into other funding ideas.

Kelsner said the program could be opened to other people and teens making them aware of what happens when you get an OWI ticket. Carpenter said it would be important to have measurable outcomes. Davis suggested that possibly participants could get some DMV points back on their driver's license after taking the classes. Carpenter said this would be a restorative justice program.

Carpenter requested anyone with ideas or suggestions to please email or call her.

### **Review of ATC Lite Model**

Davis said the ATC Lite Model is an attempt to do something without additional costs. He asked the group for suggestions and feedback on the effectiveness of the program. The program would have to be regularized in order for judges to offer it.

Gabbert asked if the program would require participants to attend AA? A state law was just passed naming AA as a religious group. Davis said there are other support groups with different names they could attend.

Carpenter asked who would verify attendance? There would be four months between a participant's first appearance and the review date. How would participants be reminded to attend? Davis said this has not been a problem in the past. He has done it six times and each one has appeared. He selects people who would be responsible and the court sends appointment reminders.

Roska said this is similar to the Addiction Resource Council's (ARC) program monitoring of Drivers Safety Plans. The program monitors all of the aspects in Davis' plan except AA. She does not know why another program is needed unless the reporting component was high. The ARC could add a screening component and send reminders to their program, but they could not add all the components of the ATC. Davis said the Drivers Safety Plans do not monitor alcohol use. Carpenter said the ATC Lite Model does random alcohol testing. Davis said the testing would not be as tight as Alcohol Treatment Court. It is important to pick people who would be a low risk. Roska said her organization is seeing multiple offenders get recycled. OWI prevention is important. Younger people need to be educated. Davis said he would talk to Roska to learn more details about the Drivers Safety Program.

Wirkus said alcohol dependence versus abuse should be considered.

Davis said this program would give back jail days to the people who complete it. Is that enough to motivate someone to not re-offend? Wirkus said this will work for some but not the sociopaths. Gabbert said alcoholism is a disease. It makes sense to work on the disease in exchange for time off. Kelsner said the judge could take away the Lite Program if a participant re-offends.

Roska said the judges will have to offer the plan to everyone. Davis said this would be a voluntary program. Gabbert said he would like to see standardization and consistency between judges.

Schuler said unless the economy improves, there will not be any programs in jails. Stress related to the economy could cause an artificial increase in drinking and driving.

### **Review of Revised OWI Offender Supervision Model**

Luczaj said at the last Alcohol Workgroup meeting the County Supervision model was presented. After the meeting, she, Schuler and DeMares talked about refining the model. The similarities between the County Supervision Model and Day Reporting were discussed and they wondered why couldn't the Day Reporting Program be expanded with a specialized track? Luczaj distributed and reviewed a handout titled *Sentencing/Supervision Options for OWI Offenders*, in particular the Day Reporting Center (DRC) component. Additional participants at the DRC would require additional staffing. Due to the current state of the economy and the loss of grant funding, funding options would have to be sought. If a fee were charged for Day Reporting, revenue could be used to hire a case manager for the specialized track.

Roska said this is a good idea. The population has huge financial pressures on them from their crime.

Morris left at 1 p.m.

Davis agreed there is a lot of financial pressure on offenders. He said sliding fee scales have been set up for a variety of programs. Hanson said her clients do not have any money to pay for these programs. What can be done to offer the programs to everyone? Schuler said we either charge fees or we don't have programs. Roska said she is also concerned about the program fees. A large percentage of participants will be pushed out of the program when they cannot pay the fees and will drive after revocation.

Andrews said we are punishing people for having a disease and making bad decisions due to their disease.

Schuler said we do not want the indigent to be screened out of the program. Davis said the county funded this two years ago and now there is no additional funding for it. It is a push to find money to expand the program. Grant opportunities are good but they are short term solutions. He would love to have this option combined with a front-end screening tool to help decide who fits into the program.

Gabbert asked if the costs for this program have been identified? Luczaj said they had not. Carpenter said according to her estimates, enough could be collected in fees to cover the costs but the indigent would have to be budgeted into the formula.

Schuler said the principle is if you have money, you pay for the cost of care. Some families pay \$4K per month while others pay \$25 per month for the same services. People with money subsidize programs for those who do not, which allows us to deliver services across-the-board.

### **Update on Estimated Fiscal Impact of Proposed OWI Legislative Changes to Waukesha County**

Luczaj distributed a handout titled *Criminalize First Operating While Intoxicated (Currently Municipal Violation)*.

Carpenter left at 1:20 pm.

Luczaj said the handout is Waukesha County's budget department's attempt to discover the fiscal impact of current pending legislation in order to make Waukesha's delegation aware of how proposed changes

will affect the county. Johnson met with representatives from all impacted departments and documented the findings.

Johnson reviewed the handout. She said she tried to encompass all possible costs of OWIs only, no piggyback charges. Criminalizing first offense OWIs could cost Waukesha County \$1.1 million annually. The second scenario outlined in the handout shows the possible costs of implementing SB 66 to be approximately \$800K. Both pieces of legislation would have a dramatic effect on the county.

Schuler left at 1:24 pm.

Gabbert added that these costs don't even include public defenders or state costs.

**Set Future Meeting Date**

- Thursday, May 7 at noon.